



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,359	10/18/2001	James F. McGuckin JR.	1303 DIV CON	8570

7590

08/11/2005

Neil D. Gershon  
Rex Medical  
1011 High Ridge Road  
Stamford, CT 06905

EXAMINER
----------

ROBERT, EDUARDO C

ART UNIT	PAPER NUMBER
----------	--------------

3732

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/982,359

Applicant(s)

MCGUCKIN, JAMES F.

Examiner

Eduardo C. Robert

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 56-80 is/are pending in the application.
- 4a) Of the above claim(s) 61, 65, 68, 75 and 77 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56-60, 62-64, 66, 67, 69-74, 76 and 78-80 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/21/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's amendment and remarks with regard to claims 62-64 have been considered and the examiner agrees with applicant. Thus, these claims have been rejoined and examined.

Claims 61, 65, 68, 75, and 77 remain withdrawn from consideration because of the reasons set forth in the Office action mailed on December 17, 2004.

### ***Terminal Disclaimer***

The terminal disclaimer filed on April 14, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,280,450 has been reviewed and is accepted. The terminal disclaimer has been recorded.

**This application is in condition for allowance except for the following formal matters:**

Claims 56-60, 62, 63, 64, and 66 are objected to because of the following informalities:

In claim 56, lines 7 and 10, "the target tissue mass" should be changed -- tissue mass -- in order to provide antecedent basis and make the claim more clear. It is noted that applicant also could just changed in lines 1 and 2, "a tissue mass" to -- a target tissue mass --. Furthermore, in line 9, "extending extendable" should be changed to -- extendable --.

Art Unit: 3732

In claim 63, line 13, "advanced" should be changed to -- advanceable -- and in line 14, "extending" should be changed to -- extendable -- in order to prevent that applicant positively recite the "target tissue mass" in combination with the apparatus.

Appropriate correction is required.

*Allowable Subject Matter*

Claims 56-60, 60, 62-64, 66, 67, 69-74, 76, and 78-80 are allowed.

Please, in response to this Office action cancel the non-elected claims in order to advance prosecution of the application.

*Conclusion*

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

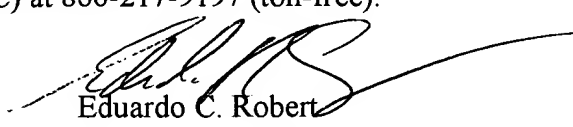
A shortened statutory period for reply to this action is set to expire **TWO**  
**MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 571-272-4719. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

Art Unit: 3732

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eduardo C. Robert  
Primary Examiner  
Art Unit 3732

E.C.R.